

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TONY B. ROSS,

Plaintiff,

vs.

Case No. 19-2690-SAC

PENTAIR FLOW TECHNOLOGIES, INC.,

Defendant.

MEMORANDUM AND ORDER

The district court granted summary judgment for the defendant in this employment discrimination case on September 10, 2021. ECF# 56. Judgment was entered the same day. ECF# 57. The plaintiff did not appeal. The defendant filed its bill of costs with a supporting memorandum on November 11, 2021. ECF## 58 and 59. The court understands that the deputy clerk informed the parties that the taxation of costs would be filed December 7, 2021. The plaintiff filed on December 6, 2021, a motion to strike the bill of costs arguing that it was due on November 10, 2021, pursuant to D. Kan. Rule 54.1(a)(1)(A). ECF# 60. “The failure of a prevailing party to timely file a bill of costs constitutes a waiver of taxable costs.” D. Kan. Rule 54.1(a)(3).

The defendant’s bill of costs and supporting memorandum were not untimely filed. The 30-day period for filing an appeal pursuant to Fed. R. App. P. 4(a)(1)(A) expired not on October 10, 2021, but on October 11, 2021, because October 10th is a Sunday. See Fed. R. App. P. 26(a)(1)(C). Thus, the defendant timely filed its bill of costs and memorandum “within 30 days after . . . the expiration of time allowed for appeal.” D. Kan. Rule 54.1(a)(1)(A).

IT IS THEREFORE ORDERED that the plaintiff's motion to strike the defendant's bill of costs (ECF# 60) is denied.

Dated this 7th day of December, 2021, Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge